

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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United States ,

Plaintiff,

**Hon. Hugh B. Scott**

v.

11CV305A

**Report  
&  
Recommendation**

\$6,500.00 United States Currency,

Defendant.

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Before the Court is the plaintiff's motion to strike the claim of claimant Lisa R. Houben ("Houben")(Docket No. 11).

This action was commenced on April 8, 2011 with respect to the seizure of \$6500 in United States currency pursuant to the forfeiture provisions of 21 U.S.C. 881. The government served special interrogatories upon Houben on May 16, 2011. (Docket No. 12 at ¶ 5). Despite several attempts to obtain responses from Houben, it appears that the claimant has failed to respond in any way to the discovery requests. (Docket No. 12 at ¶¶ 5-9). The government filed the instant motion to strike Houben's claim on July 20, 2011. The Court directed the claimant to respond to the motion by August 12, 2011. (Docket No. 14). The claimant has failed to respond to the motion in any way.

In light of the claimant's default, it is recommended that the claim of Lisa R. Houben as

to the \$6500 be stricken due to a failure to prosecute her claim.

Pursuant to 28 U.S.C. §636(b)(1), it is hereby ordered that this Report & Recommendation be filed with the Clerk of the Court and that the Clerk shall send a copy of the Report & Recommendation to all parties.

**ANY OBJECTIONS to this Report & Recommendation must be filed with the Clerk of this Court within fourteen(14) days after receipt of a copy of this Report & Recommendation in accordance with 28 U.S.C. §636(b)(1), Rules 6(a), 6(e) and 72(b) of the Federal Rules of Civil Procedure, as well as W.D.N.Y. Local Rule 72(a)(3).**

**FAILURE TO FILE OBJECTIONS TO THIS REPORT & RECOMMENDATION WITHIN THE SPECIFIED TIME, OR TO REQUEST AN EXTENSION OF TIME TO FILE OBJECTIONS, WAIVES THE RIGHT TO APPEAL ANY SUBSEQUENT ORDER BY THE DISTRICT COURT ADOPTING THE RECOMMENDATIONS CONTAINED HEREIN.** Thomas v. Arn, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed2d 435 (1985); F.D.I.C. v. Hillcrest Associates, 66 F.3d 566 (2d. Cir. 1995); Wesolak v. Canadair Ltd., 838 F.2d 55 (2d Cir. 1988); see also 28 U.S.C. §636(b)(1), Rules 6(a), 6(e) and 72(b) of the Federal Rules of Civil Procedure, and W.D.N.Y. Local Rule 72(a)(3).

Please also note that the District Court, on *de novo* review, will ordinarily refuse to consider arguments, case law and/or evidentiary material which could have been, but was not, presented to the Magistrate Judge in the first instance. See Patterson-Leitch Co. Inc. v. Massachusetts Municipal Wholesale Electric Co., 840 F.2d 985 (1st Cir. 1988).

Finally, the parties are reminded that, pursuant to W.D.N.Y. Local Rule 72.3(a)(3), “written objections shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for such objection and shall be

supported by legal authority.” **Failure to comply with the provisions of Rule 72.3(a)(3) may result in the District Court’s refusal to consider the objection.**

So Ordered.

*/s/ Hugh B. Scott*

United States Magistrate Judge  
Western District of New York

Buffalo, New York  
September 9, 2011